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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/601,839	06/23/2003	Carlos Delgado	NHL-DEL-01-REG	9554

7590 05/19/2004  
NILS H. LJUNGMAN  
NILS H. LJUNGMAN & ASSOCIATES  
P.O. BOX 130  
GREENSBURG, PA 15601-0130

EXAMINER

CEGIELNIK, URSZULA M

ART UNIT	PAPER NUMBER
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3712

DATE MAILED: 05/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/601,839

Applicant(s)

DELGADO, CARLOS

Examiner

Urszula M Cegielnik

Art Unit

3712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☒ Claim(s) 2 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 6/23/2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Drawings***

Figures 26-34 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Specification***

The disclosure is objected to because the Specification describes prior art in the drawings. However, the drawings are not labeled as prior art. See for example only, in the Specification, page 9, lines 1-17. Correction is required. See MPEP § 608.01(b).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nagasaka et al. in view of Simonelli, Smith, III et al., and German Publication No. DE 19819346).

Nagasaka et al. disclose a model car racing track comprising a track (20); the track having a left lane (the left portion of reference numeral 20) and a right lane (the right portion of reference numeral 20); the left and right lanes being U-shaped (the curved portion of reference numeral 20); the track comprising smooth strips; piping (the

Art Unit: 3712

bottom portion of reference numeral 27, i.e. the recess), and a finish line; a pressurized network comprising air conduits (20a); an air compressor (31); an air regulator (50); release valves (51), and air jets (30); at least one of the air jets (30) being designated the initial air jet of each lane (each air jet 30 controls each respective vehicle 6 for each lane).; two model cars (6).

Nagasaka et al. discloses the claimed invention except for the control system comprising clutches being disposed to be operated by foot; gearshift joysticks; a timer; a sensor; the sensor positioned at a finish line on each lane; a light pole.

Simonelli discloses a control system for a model racing car track (1) having clutches (20) being disposed to be operated by foot (*the clutch 20 is actuated by the operator inside booth 4 or 5, see Figure 2*); gearshift joysticks (21, one joystick per operator's booths 4 and 5).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a clutch and gearshift joysticks as taught by Smith, III et al., since such a modification would simulate real racecar driving.

Smith, III et al. disclose a model racecar track having a lap sensor 70 disposed in a track section (col. 5, lines 3-11). The master control (control module) 10 determines the completion of a lap (col. 5, line 5) or the end of race (col. 5, lines 9-10). The reference further teaches a timer (fuel timer).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a timer and sensor as taught by Smith, III et al. since such a modification would simulate real racecar driving.

DE 19819346 discloses a light post for a model racecar track (see the Figures).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a light post as taught by DE 19819346, since such a modification would simulate real racecar driving.

***Allowable Subject Matter***

Claim 2 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Urszula M. Cegielnik whose telephone number is 703-306-5806. The examiner can normally be reached on Monday through Friday, from 5:30AM - 2:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris H. Banks can be reached on 703-308-1745. **The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306 for both regular and After Final communications.**

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to Customer Service at 703-306-5648.

Urszula M. Cegielnik  
Assistant Examiner  
Art Unit 3712



DERRIS H. BANKS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700